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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,599	01/30/2004	Bernardo Ayala	BA01-01U	5201
37038	7590	05/03/2007		
BUHLER ASSOCIATES BUHLER, KIRK A. 1101 CALIFORNIA AVE. SUITE 208 CORONA, CA 92881			EXAMINER DAVIS, CASSANDRA HOPE	
			ART UNIT 3611	PAPER NUMBER
			MAIL DATE 05/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/767,599	Applicant(s) AYALA, BERNARDO	
	Examiner Cassandra Davis	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 11, 13-16, 18-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 11, 13-16, 18-20 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to the amendment filed January 25, 2007.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 11, 13-16, 18-20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson, U. S. Patent 6,604,840 in view of Yu, U. S. Patent 6,526,680 and Dalton et al. US 20040201992A1.

3. Watson teaches an illuminated sign comprising a frame structure 12 capable of retaining a replaceable image/sign 8, a power storage device 44. Located within the frame structure 12, a variable power control device (photoelectric light switch 70) located within the frame structure, and plurality of LED light sources 50 located in front of the image to shine light onto the image/sign 8. The light sources 50 are mounted along the top edge of the image/sign 8. As a result the image or sign will be brighter along the top edge than the bottom edge.

4. Watson does not teach the frame structure surrounding the image/sign. In addition, Watson does not teach the variable power control mechanism that varies the intensity of the LED light sources such that the intensity of the light source supplements ambient light or a frame structure surrounding the image/sign.

5. Dalton et al. teaches an illuminated means comprising a housing 11, light sources 2, a light dependent resistor (LDR) 750, and power supply in the form of a battery 620, 20. Dalton also teaches a circuit board which optionally contains a circuit that senses the ambient light and adjusts the brightness of the lights 2 in response to brightness of the ambient light. Dalton teaches the circuit will sense the ambient light and regulate the energy going to the lamps in proportion to the amount of the light that has been sensed. Thus, the light is decreased when the ambient light level is increased and the light is increased as the ambient light level decreases. See claims 24 and 25 of Dalton.

6. Yu teaches an illuminated license plate holder comprising a frame member 4 surrounding the license plate.

7. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the illuminated sign taught by

Watson with the switch and circuit board taught by Dalton to provide a means to adjust the intensity of the light so that the sign is always visible regardless of the ambient or surrounding light.

8. It would have been obvious to one having ordinary skill in the art at time this invention was made to construct the illuminated sign taught by Watson and Dalton with a frame structure surrounding the image/sign as taught by Yu to provide a means to evenly illuminated the entire perimeter of the sign.

9. With respect to claim 2, 16, and 22, since the applicant does not disclose that making the frame of wood, plastic, or metal solves any stated problem or is for any particular purpose, it appears that constructing the frame of any suitable material as taught by Watson would perform equally well in storing and display the picture/sign.

10. With respect to claims 3, 4, 11, and 18, Watson teaches the power source is a rechargeable battery. See column 3, lines 26-27. With respect to claims 5, 12, and 19, Watson teaches the light source can be a LED, incandescent or other miniature lights. See column 3, lines 27-32.

11. With respect to claim 6, 9, and 13 Watson teaches the sign is a flat panel with indicia thereon.

12. With respect to claim 7, 14, and 20, Dalton teaches a circuit board for electrically connecting various electrical components.

13. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson, U. S. Patent 6,604,840 in view of Yu, U. S. Patent 6,526,680 and Dalton et al. US 20040201992A1 as applied to claims 1 and 8 above, and further in view of Tanny et al., U. S. Patent 6,116,977. Tanny teaches a display device incorporating a sensing means which is capable of detecting changes in the ambient light level or sound level which occur when an individual passes in the vicinity of the light sensor. When a change is detected, a signal is sent to speaker. See column 2, lines 9-14. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the device taught by Watson, Yu, and Dalton et al. with the sensor and speaker as taught by Tanny to bring attention to the display.

14. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson, U. S. Patent 6,604,840 in view of Yu, U. S. Patent 6,526,680 and Dalton et al. US 20040201992A1 as applied to claims 1 and 8 above, and further in view of Privas et al., U. S. Patent 6,390,648.

15. Privas teaches a display apparatus for works of art comprising a housing 50, translucent panel 52, power source 16, circuit 18, light source 22 and sensor 26. The sensor 26 may be a passive infrared sensor for detecting the presence of a person within close proximity to the device, wherein the term sensor is used to indicate either a motion or heat sensor. Upon detection of a person the sensor activates the light source 22.

16. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the device taught by Watson, Yu, and Dalton et al. with a motion sensor as taught by Privas to provide a means to activate the light source upon detection of person or thing approaching the device.

Drawings

17. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore, the a 3-dimensional image that rises from a surface as recited in claims 6, 13 and 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the

application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Response to Arguments

Applicant's arguments filed January 25, 2007 have been fully considered but they are not persuasive.

The applicant argues Watson does not teach a “variable power control device”. The examiner disagrees. Since the power source can be switch from an on position to a an off position, the examiner considers the power source having the ability to be varied.

The applicant further argues while “Dalton discloses using a light detector to vary the amount of illumination from the light, but there is no motivation in Dalton to take the walkway light from Dalton and use it to illuminate a picture, artwork, or a street sign. The examiner disagrees. Since both Watson and Dalton teaches illumination devices having a means to detect the surrounding light and a switch means to turn on and/or adjust the light source, it would have been obvious to use the adjustable light source and switch of Dalton with in the device of Watson.

With respect to the amendment to claim 1, the applicant now claims “the light source shines a beam of light onto the artwork or picture to illuminate a portion of the artwork or picture more brightly than other parts of the artwork or picture. The examiner considers this limitation to be inherent in Watson. The light sources 50 are mounted along the top edge of the image/sign 8. As a result the image or sign will be brighter along the top edge than the bottom edge.

With respect to claims 23 and 24, the applicant argues "Tanny teaches sound production based upon a change of light intensity. There is no illumination in the Tanny et al., patent. The use of a light sensor in Tanny et al. is used to determine the when the sound activation begins. This is an entirely different use of the light sensor in the pending application where the light sensor changes the illumination on the picture or artwork. The examiner contends the applicant does not claim the "light sensor changes the illumination on the picture or artwork". Claim 23 recites "a sound generating means that makes sound in response to ambient light changes".

With respect to claim 25 and 26, the applicant argues the examiner uses hindsight to combine the references. The applicant further argues Privas teaches a display apparatus is not integrated into the frame of the artwork. The examiner disagrees, Privas clearly teaches an illuminated frame for a picture. Since both Watson and Privas teach a sensor or switch for activating the light source, the examiner contends motivation to combine is inherent.

The rejection is maintained.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cassandra Davis
Primary Examiner
Art Unit 3611

CD
April 29, 2007